

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ANIMAL SCIENCE PRODUCTS, INC.,
et al.,

Plaintiffs,

v.

CHINA NATIONAL METALS &
MINERALS IMPORT & EXPORT
CORPORATION, et al.,

Defendants.

Civ. No. 05-4376 (GEB)

ORDER

For the reasons stated in the Opinion filed herewith,

IT IS on this 1st day of April, 2010,

ORDERED that the Clerk shall reopen this matter for the purposes of addressing
Plaintiffs' Amended Complaint, Docket Entry No. 77, and Defendants motions, Docket Entries
Nos. 98 and 99; and it is further

ORDERED that Defendants motions to dismiss are granted to the extent that Plaintiffs'
Amended Complaint, Docket Entry No. 77, is dismissed:

- (a) with prejudice as to Plaintiffs' claims invoking this Court's subject matter jurisdiction
pursuant to 15 U.S.C. § 6a (1)(A), i.e., the exporter exception of the Foreign Trade
Antitrust Improvements Act ("FTIA");
and
- (b) without prejudice as to Plaintiffs' claims invoking this Court's subject matter jurisdiction
pursuant to the introductory clause of the FTIA. Plaintiffs will be allowed an
opportunity to amend this group of their claims; and it is further

ORDERED that Defendants' application for abstention on the grounds of the act of state doctrine is denied with prejudice; and it is further

ORDERED that Defendants' motions to dismiss, pursuant to the Foreign Sovereign Immunities Act, Plaintiffs' claims against those Defendants that are 100% owned by the Chinese government are denied. Such denial is without prejudice to Defendants' renewal of these motions; and it is further

ORDERED that Defendants' application for abstention on the grounds of the government compulsion doctrine is reserved in accordance with the guidance provided in the Opinion filed herewith; and it is further

ORDERED that, within 180 days from the date of entry of this Order, Plaintiffs shall electronically file -- and serve upon Defendants -- Plaintiffs' re-amended pleadings. Plaintiffs shall also file documentary and/or testimonial evidence establishing this Court's jurisdiction. In the event Plaintiffs wish to execute such filing under seal, Plaintiffs shall make an application to that effect no later than two weeks prior to such filing and in accordance with the Local Rules; and it is further

ORDERED that, in the event Plaintiffs elect to rely on testimonial evidence, Defendants will be entitled to depose Plaintiffs' witnesses producing such testimonies. Both sides shall strive to agree on the mode(s) and schedule of these depositions, negotiating the same in good faith and with an aim to preserve, to the maximum degree feasible, both Plaintiffs' time and resources and Defendants' time and resources, and also with an aim to avoid or minimize to the maximum degree feasible (but without compromising the merits of these proceedings) undue inconveniences to the witnesses. The parties' joint statement specifying the anticipated mode(s)

and time frame for completion of all such depositions (or the parties' individual statements conceding impasse of their negotiations and suggesting, in good faith and with due considerations of the limited resources of the party's adversaries and of the burdens likely to be faced by the witnesses, the mode(s) and time frame for such depositions) shall be electronically filed with the Court within 60 days from the date of Plaintiffs' service of their witnesses' affidavits upon Defendants; and it is further

ORDERED that reconciled verified transcripts of *all* depositions, *accompanied by corresponding video-recordings*, shall be electronically filed with the Court no later than within 90 days from the date of the last deposition conducted. All video recordings shall be placed onto clearly identified Digital Versatile Discs and filed with the Court in *duplicates*; and it is further

ORDERED that no complimentary hard copies of any parties' documents or of any documentary evidence shall be served either upon the Chambers of the undersigned or filed with the Clerk, except upon specific request of the Court; and it is finally

ORDERED that the Clerk shall administratively terminate this matter subject to reopening upon Plaintiffs' timely filing of a re-amended complaint.

/s/ Garrett E. Brown
Garrett E. Brown, Jr.
Chief Judge
United States District Court